

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7047

BILL NUMBER: HB 1263

NOTE PREPARED: Dec 30, 2010

BILL AMENDED:

SUBJECT: Removal of public officers from office.

FIRST AUTHOR: Rep. Stemler

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: *Suspension From Office-* The bill provides that a local elected officeholder may be suspended from office if the officeholder is charged with certain felonies or misdemeanors and a two-thirds majority of the legislative body finds that the offense with which the local elected official is charged is relevant to the official's suitability for office and it is in the best interests of the unit that the official be suspended from office.

Reinstatement With Back Pay- The bill specifies that the local elected official must be reinstated with back pay if the official is acquitted or charges are dropped.

Penalty Provision- The bill provides that a local elected official who, without a valid reason, knowingly or intentionally fails to perform the official's duties on ten or more days during a calendar month commits dereliction of duty, a Class D felony.

Effective Date: July 1, 2011.

Explanation of State Expenditures: *Penalty Provision-* The bill provides for a Class D felony for a local elected official who knowingly or intentionally fails to perform the official's duties. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$19,307 in FY 2010. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$4,818 annually, or \$13.20 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$68,260 in FY 2010. The average length of stay in Department of

Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: *Penalty Provision-* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures: *Suspension From Office-* If a local elected official were suspended, they would have their non health benefit compensation suspended. The impact of this provision on local expenditures would be dependent on local action.

Reinstatement With Back Pay- This provision would allow an elected official that is acquitted of or had charges dropped to receive back pay from their suspension from duty. If the official were convicted of a misdemeanor they could be eligible for their back salary in whole or part depending on the decision reached by the legislative body.

Penalty Provision- If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: *Penalty Provision-* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: DOC.

Local Agencies Affected: County prosecutors, local unit legislative bodies, trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association; DOC.

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